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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 21, 2000

Ms. Magalie Roman Salas  
Secretary, Federal Communications Commission  
The Portals, 445 12th Street, S.W.  
Washington D.C. 20554

**Re: Ex Parte – Availability of INTELSAT Space Segment Capacity to Users and Service Providers Seeking to Access INTELSAT Directly  
IB Docket No. 00-91**

Dear Ms. Salas:

On August 18, 2000, Kent Nakamura, for Sprint Communications Company L.P. ("Sprint"), and Alfred Mamlet and Maury Shenk, for Sprint and WorldCom, Inc. ("WorldCom"), met with James Ball, Douglas Webbink, and Steven Spaeth of the International Bureau ("Bureau") and discussed the above-captioned matter, including the matters in the attached presentation. At the request of the Bureau, Sprint at the meeting provided the attached list of INTELSAT satellites used by Sprint. In response to the same request, WorldCom is providing a similar list as an attachment to this letter. Two copies of the attached materials are being provided to the Commission with this letter.

At the meeting on August 18, the Bureau requested that Sprint and WorldCom provide additional detail regarding certain matters:

- the usefulness of INTELSAT expansion capacity described by COMSAT Corporation ("COMSAT") in its submissions in this proceeding;
- the identity of routes on which there is a particular shortage of INTELSAT capacity; and
- the foreign capacity matching issues raised in the Sprint / WorldCom comments in this proceeding.

These matters are addressed below.

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List A B C D E

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### **INTELSAT Expansion Capacity**

Although the INTELSAT capacity expansions that COMSAT has described are welcome, they will not solve the capacity problems at issue in this proceeding.

First, these expansions will do no more than keep up with the current explosive growth in international telecommunications traffic. WorldCom reports that its requirements for INTELSAT satellite capacity are currently increasing at 10-12% per year (and its total international traffic is increasing at many times that rate). Over the 3.5 year period from mid-2000 to the end of 2003, WorldCom's annual increase in INTELSAT traffic is equivalent to a compound increase of 40-49 percent – roughly equal to the 45 percent INTELSAT capacity increase described by COMSAT.

Second, in certain cases, the new INTELSAT capacity will not be as attractive as existing capacity. Sprint would need to invest several million dollars in new, smaller earth stations in order to best utilize the new INTELSAT capacity. These required investments would impair the economic attractiveness of the new capacity as compared to current capacity (particular as the cost advantages of fiber optic cable capacity over satellite capacity continue to increase). Furthermore, Sprint has a partial transponder lease on the West hemisphere beams of INTELSAT 709, which is schedule to be replaced by INTELSAT Alpha-1 in the third quarter of 2003. Because Alpha-1 will not have a West hemisphere beam, Sprint will need to split its existing lease, making capacity management very difficult. Sprint has submitted a complaint to COMSAT and INTELSAT on this issue.

### **Routes With Shortage of Capacity**

The shortages of INTELSAT capacity demonstrated in this proceeding are present on virtually all routes. Sprint and WorldCom report that the shortages are acute on all routes except those between the United States and Western Europe, where fiber optic cable capacity is available to essentially all destinations and there is consequently no need to use INTELSAT capacity.

### **Capacity Matching**

As WorldCom has described, INTELSAT will not indicate whether U.S. capacity is unavailable until after a foreign match has been confirmed.<sup>1</sup> Accordingly, for the WorldCom direct access orders for which no foreign match was available,<sup>2</sup> there is no way to know whether U.S. capacity was available (and likely in many cases it was not). Nevertheless, the “frequency

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<sup>1</sup> See Affidavit of George Clutter (“WorldCom Aff.”), ¶ 9, Exhibit 1 to Comments of Sprint Communications Company L.P. and WorldCom, Inc. (June 23, 2000) (“Sprint/WorldCom Comments”).

<sup>2</sup> See Sprint/WorldCom Comments at 9; WorldCom Aff., ¶ 7.

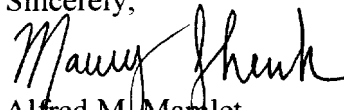
change” proposal of WorldCom and Sprint would provide significant benefits.<sup>3</sup>

There are essentially three types of situations in which a customer seeking direct access would face a foreign match issue. First, in some circumstances vacant U.S. capacity would be available in a different transponder or circuit than that being used by COMSAT. In this case, the frequency change approach would allow direct access customers to use this non-COMSAT capacity, while avoiding the foreign match problems that WorldCom and Sprint have described.<sup>4</sup>

Second, in other instances, a direct access customer would have the right to use the same U.S. circuit currently being used by COMSAT – either because (1) COMSAT’s capacity contract with INTELSAT is expiring or (2) the circuit is a standardized circuit and COMSAT’s contract with INTELSAT does not define the particular standardized circuits that COMSAT has a right to use (*i.e.*, INTELSAT can move COMSAT to a different circuit). In this case, the “frequency change” would not involve an actual change in frequencies – but it would involve the same administrative procedure as in the first case above and would likewise involve use of non-COMSAT capacity by the U.S. direct access customer.

Third, in other circumstances COMSAT would have a contractual right to use the U.S. circuit that the direct access customer seeks to use. In this case, the frequency change proposal would not apply. Sprint and WorldCom have proposed the network management fee approach to deal with this case.<sup>5</sup>

Sincerely,



Alfred M. Mamlet

Maury D. Shenk

#### Attachments

cc: Mr. James Ball  
Mr. Douglas Webbink  
Mr. Steven Spaeth  
Mr. Lawrence W. Secrest, III (counsel for COMSAT)

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<sup>3</sup> See Sprint/WorldCom Comments at 14; Reply Comments of Sprint Communications Company L.P. and WorldCom, Inc. at 12 (July 19, 2000) (“Sprint/WorldCom Reply”).

<sup>4</sup> See Sprint/WorldCom Comments at 10; WorldCom Aff., ¶ 9.

<sup>5</sup> See Sprint/WorldCom Comments at 13-14; Sprint/WorldCom Reply at 10-11.

# **Portability of INTELSAT Capacity**

Sprint / WorldCom  
FCC International Bureau  
August 18, 2000

# INTELSAT Capacity Is Scarce

“ Today, nearly 80% of INTELSAT transponders that can access the U.S. are in operational use serving customer demand. The remaining 20% are available for U.S. users, but less than half of them (*i.e.*, only 8% of the total) are in high demand from a U.S. customer requirements perspective, and some of the most desirable connectivities are completely sold out. Moreover, some of the capacity that is located in high-demand connectivities is fragmented over numerous transponders, and thus is not useful to users with higher bandwidth needs. ”

-- COMSAT Comments at 7-8

## **Direct Access Capacity Available to U.S. Customers Is Very Limited**

- WorldCom has obtained direct access for only 12 percent of the circuits that it has requested.
- With failure of the WorldCom/Sprint merger, Sprint anticipates rapid expansion of its data business internationally, and capacity limitations will restrict Sprint's ability to use direct access in place of or in addition to COMSAT contracts.
- Other commenters have described similar capacity limitations.

# COMSAT Has Privileged Access to INTELSAT Capacity

- COMSAT's privileges result from its former monopoly.
- COMSAT can extend its monopoly via INTELSAT procedures.
  - leases -- guaranteed reservations, rights of first refusal
  - standardized circuits -- long term contracts, “rolling” extensions
- Capacity limitations allow COMSAT to continue monopoly pricing, particularly on non-competitive routes.
- COMSAT has long known that its capacity monopoly can be used to block direct access:

[M]ost importantly, COMSAT has a capacity contract with Intelsat, which gives the company ownership of the vast majority of capacity connecting with the U.S. In effect, others can play ball under direct access, but COMSAT owns the equipment.

-- Salomon Smith Barney (October 5, 1998)

## **The ORBIT Act Requires “Appropriate Action”**

- It is undisputed that INTELSAT capacity is scarce.
- It is undisputed that capacity limitations are impairing availability of direct access.
- There is substantial evidence of COMSAT's privileged access to INTELSAT capacity.
- These facts require the FCC to take “appropriate action” under § 765(b) of the ORBIT Act.

# Remedy -- Network Management Fee

- Proposal
  - applies upon expiration of existing COMSAT customer contract for INTELSAT services
  - direct access customer can:
    - continue to purchase through COMSAT at IUC plus NMF (2% of IUC)
    - purchase for any service term consistent with underlying COMSAT-INTELSAT contract
    - exercise right of first refusal to purchase directly from INTELSAT upon expiration or renewal of COMSAT capacity contract
- Advantages
  - provides many of benefits of direct access
  - preserves COMSAT contracts, pursuant to § 765(c) of ORBIT Act

# Remedy -- Frequency Changes

- Proposal -- treat transition from COMSAT to direct access customer as a frequency change that does not require foreign capacity match
- Advantages
  - simple to implement operationally -- INTELSAT was willing until COMSAT blocked it
  - solves many direct access capacity problems without involving COMSAT capacity contracts at all

## Sprint Use of INTELSAT Satellites

### INTELSAT Satellites that Sprint Accesses from Sprint-Owned Earth Stations

Satellite	Degrees W.L.	Earth Station
601	34.5	FRN01A
603	24.5	FRN03A
705	18	BLI01A
709	50	FRN02B
802	186	SRM01A
		SRM02B <sup>1</sup>

### INTELSAT Satellites that Sprint Accesses via Leased Earth Stations in United States

Satellite	Degrees W.L.	Earth Station
702	183 (184) <sup>2</sup>	BRW07A (ATC)
706	53	BRW06A (ATC)
707	1	EMA03A (ATC)
801	31.5	EMA04A (ATC)

Sprint uses capacity on certain other INTELSAT satellites that is purchased by earth station owners with which Sprint contracts.

For the INTELSAT satellites that are planned to be replaced, Sprint expects that INTELSAT will assign like capacity.

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<sup>1</sup> Used to access INTELSAT 513 at 183 W.L. Presently unassigned, waiting for POR opportunity.

<sup>2</sup> Will move due to change to 2 degree spacing this year.

## **WorldCom Use of INTELSAT Satellites**

### **INTELSAT Satellites that WorldCom Accesses from the United States**

<b>Satellite</b>	<b>Degrees E.L.</b>
802	174
702	177
706	307
709	310
601	325.5
801	328.5
605	332.5
603	335.5
705	342
707	359